

OFFICIAL MINUTES NOVEMBER 13, 2013
CITY OF GUNNISON PLANNING AND ZONING COMMISSION
REGULAR MEETING

7:00PM

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MEMBERS	PRESENT	ABSENT	EXCUSED
Erik Niemeyer			X
Erich Ferchau	X		
Andy Tocke	X		
Bob Beda	X		
Sharon Cave	X		
Greg Larson	X		
Councilor Stu Ferguson	X		

OTHERS PRESENT: Community Development Director Steve Westbay, City Planner Andie Ruggera, Planning Technician Pam Cunningham, and Marlene Zanetell.

I. CALL TO ORDER AT 7:00 PM BY CHAIR GREG LARSON

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. UNSCHEDULED CITIZENS.

IV. PUBLIC HEARING AND POSSIBLE ACTION: ZA 13-4, TEXT AMENDMENT TO THE LAND DEVELOPMENT CODE.

Open Public Hearing. Chair Larson opened the public hearing at 7:02 p.m.

Proof of Publication was shown for the record.

Director Westbay gave an overview of the process. He explained that this is a unique process and is being processed as a Text Amendment. He explained the governmental powers to zone. The processes and procedures followed by the application are consistent with the Text Amendment procedures in the *Land Development Code*. Because this is a legislative act, it allows latitude in public outreach. The public outreach included mailing invitations to two open houses to 61 realtors, appraisers, and contractors as well as publishing notices for the open houses in the newspapers and posting them on the City's website and the City's Facebook page.

Director Westbay explained the proposed amendment and gave a brief overview of the sections with the most significant changes; Section 2, Section 4, Section 6, and Section 9.

Applicant Presentation. Director Westbay stated that the Staff Observations are identical to the Findings and that he had nothing more to add.

Public Input. Marlene Zanetell said that because of her interest in zoning of her property, it has brought the *LDC* to her attention. She thinks it is commendable and that the more clarity there is in the document, the more useful it will be. She said she appreciates staff's work and P&Z's work. She said she is sure it was a long process.

Staff Presentation. Director Westbay added that, in terms of public comments, which was captured in Finding 14, numerous meetings were held with individuals about their properties. The outreach was important to try to capture community input. Staff feels it was fairly successful. There was a lot of interest in the process.

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Chair Larson stated there was ample opportunity for public input.

Commission Discussion.

Councilor Ferguson stated that this has been a very long process. The final package is commendable. It was a tremendous amount of work.

Chair Larson welcomed Commissioner Cave.

Commissioner Cave, who was just appointed on November 12th, stated she read a lot of the *LDC*. She said it looks good and she doesn't see anything anyone could get really upset about.

Commissioner Beda stated that the process was interrupted several times. The Commission has gone through several members and a consultant during the process. He said, "I think we have it done. We had good discussions. We should be proud and send it on its way."

Chair Larson thanked current and past commissioners and staff. It has been a long time in the making. He recognized that with changes in membership of P&Z it adds extra work for staff.

Commissioner Tocke stated that "I like it. It was nice to come on board with this going on, it taught me a lot. I would like to do another one day, because I know more...in a number of years. It has opened my eyes to a lot of nuts and bolts; I will have more to contribute next time."

Commissioner Ferchau stated, "I am not in favor of regulation for sake of regulation. There were a number of things we talked through in detail. Some things I am not excited about...solar fence, lighting—because of lack of demand and lack of concern. At the end of the day there is adequate flexibility in the document that allows people to make exceptions where exceptions need to be made. We have put a lot of time and energy into it. I applaud everyone's efforts. Public outreach was smart to do. It must have been effective because there aren't a lot of people screaming and shouting. I'm ready to pass it."

Director Westbay addressed Commissioner Ferchau's points about flexibility. He stated, "There is no perfect regulation, there never will be. It is a sound document. It will help our administration, but it isn't perfect. We will be making amendments if we find faults. We will correct mistakes as they occur. But we have a good foundation."

Chair Larson stated, "This is a living document subject to change as needs, viewpoints and values change."

Close Public Hearing. Chair Larson closed the public hearing at 7:17 p.m.

Commission Action. Commissioner Beda moved and Councilor Ferguson seconded to recommend APPROVAL to City Council of Zoning Amendment application ZA 13-4, for a Text Amendment repealing the existing *Land Development Code* and reenacting a new *Land Development Code* with all fifteen Findings of Fact.

Roll Call Yes: Ferchau, Larson, Ferguson, Tocke, Beda
Roll Call No:

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Roll Call Abstain: Cave
Motion carried

- V. RESOLUTION 1, SERIES 2013, COMMENDING STEPHANIE WHITE FOR HER SERVICE TO THE PLANNING AND ZONING COMMISSION.** Councilor Ferguson introduced the Resolution and asked Director Westbay to read it in its entirety, which he did. Councilor Ferguson moved and Commissioner Tocke seconded, to approve Resolution 1, Series 2013 as corrected.

Roll Call Yes: Ferchau, Larson, Cave, Beda, Tocke, Ferguson
Roll Call No:
Roll Call Abstain:
Motion carried

- VI. THREE MILE COUNTY REFERRAL – LAND USE CHANGE TO REPLACE KVLE RADIO TOWER AND SHED AT 1445 NORTH HIGHWAY 135.**

Director Westbay stated that the application does not seem like a land use change; it is updating equipment.

Chair Larson stated that the updated equipment may add a level of safety.

Councilor Ferguson stated that it could be an improvement in appearance.

Commissioner Ferchau moved and Commissioner Beda seconded to authorize Chair Larson to sign the letter to the Board of County Commissioners.

Roll Call Yes: Tocke, Larson, Cave, Ferguson, Beda, Ferchau
Roll Call No:
Roll Call Abstain:
Motion carried

- VII. CONSIDERATION OF THE OCTOBER 23, 2013 MEETING MINUTES.** Commissioner Beda moved and Councilor Ferguson seconded, to approve the October 23, 2013 meeting minutes as presented.

Roll Call Yes: Ferchau, Tocke, Larson, Ferguson, Beda
Roll Call No:
Roll Call Abstain: Cave
Motion carried

- VIII. UPCOMING MEETING SCHEDULE.** The Commission unanimously agreed to cancel the November 27th and December 25th meetings. The next regularly scheduled meeting is December 11th, at which time the Commission will discuss the status of action items in the *Master Plan*.

- IX. MOTION TO EXCUSE COMMISSIONER NIEMEYER.** Commissioner Ferchau moved and Commissioner Tocke seconded to excuse Commissioner Niemeyer from the meeting.

Roll Call Yes: Larson, Cave, Beda, Ferguson, Tocke, Ferchau

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Roll Call No:
Roll Call Abstain:
Motion carried

X. PUBLIC HEARING AND POSSIBLE ACTION: ZA 13-5, MAP AMENDMENT TO AMEND THE CITY OF GUNNISON ZONING MAP.

Open Public Hearing. Chair Larson opened the public hearing at 7:29 p.m.

Proof of Publication was shown for the record.

Planner Ruggera gave an overview of the process and reviewed the governmental powers to zone, regulate land use, and apply development standards to real property as granted under the *Colorado Revised Statutes*. She explained that staff is recommending an update of the Official Zoning Map because of the zoning map amendments and annexations that have taken since the map was last updated.

Planner Ruggera briefly summarized each of the proposed changes. She explained the request from Marlene and Frank Zanetell regarding their property on the 400 block of North Iowa to rezone the property from R-2 to R-3, which is compatible with the current use.

Planner Ruggera stated that the public outreach was done in conjunction with outreach for the LDC update and is the same as what Director Westbay explained in his staff presentation [and included mailing invitations to two open houses to 199 property owners affected by the zoning change].

Public Input. Planner Ruggera stated that public input was taken into consideration and staff made changes to the recommendation based on that input.

Commissioner Ferchau asked about input from the owner of Lazy K. Planner Ruggera responded that the PUD Commercial portion of Lazy K was left as PUD Commercial at the owner's request. She said that West Cove condominiums has a different owner and staff is recommending that site be rezoned to RMU.

Marlene Zanetell addressed the Commission. She stated that "as long as you have had an opportunity to read our letter, there is no reason for me to take your time. I appreciate the staff responding to our request. Your public outreach worked for us. We were concerned to find out we were not properly zoned. I urge you to consider our request to the City. I appreciate your concern with this. We are relieved the City is responding to us."

Staff Presentation. Planner Ruggera briefly reviewed the Staff Observations.

Commission Discussion.

Commissioner Ferchau stated "I think the objections were honored for the most part. We cleaned things up, rolled the dice on a few."

Commissioner Tocke had no comments.

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Commissioner Beda thanked Frank and Marlene Zanetell for picking up on an oversight that has been going on for a few years. He stated that they have done a great job over the years with their property. He said that in the case of Zanetell's property spot zoning is applicable; it is a mixed use and it is an ideal spot for it.

Commissioner Cave had no comments.

Councilor Ferguson stated that this is a great example that public outreach is important and a real life example of how it works.

Chair Larson thanked staff for doing the public outreach. He said, "We got a good map out of it".

Close Public Hearing. Chair Larson closed the public hearing at 7:40 p.m.

Commission Action. Commissioner Beda moved and Commissioner Tocke seconded, to recommend approval to the City Council of Zoning Amendment application ZA 13-5, to approve the amendments to the Official Zoning Map and that all Findings of Fact apply.

Roll Call Yes: Ferchau, Larson, Ferguson, Tocke, Beda

Roll Call No:

Roll Call Abstain: Cave

Motion carried

XI. COUNCIL UPDATE. Councilor Ferguson updated the Commission on recent Council business.

Council is reaching closure on the 2014 Budget; they reached consensus on a few things, and tweaked a few things. It is challenging because there are so many new Council members.

He said that one thing of interest is that the Gunnison Valley Housing Authority, which is no longer a County entity, is moving forward with the affordable housing project in Crested Butte. The Housing Director and a Crested Butte Council member made a pitch for funding. Council chose to do so. Mt. Crested Butte and the County are also helping with funding. He said that having an affordable housing project in Crested Butte is good for the county because it spreads affordable housing over the county, rather than having it in just one spot. He said that as the Housing Authority builds momentum, the hope is that government entities won't have to fund these projects and that the tax credit financing will give them enough resources to not have to look for donations. This could enable them to take on affordable projects in Gunnison. This brings communities closer together.

Commissioner Ferchau asked how the budget is compared to last year. Councilor Ferguson responded that it is slightly larger. He said that sales tax revenue is estimated to be about 8% above last year and the entirety of the year has been pretty positive. Revenue projections for next year are held to a modest amount. By being cautious our community maintains strong financial footing. Next year employees will get some compensation adjustment. Streets are always critically important. Maintaining infrastructure is the lifeblood of what we do. He said he would describe it as cautious. The City has a good fund balance. There have been some rainy days and having a strong fund balance helps us weather storms.

XII. COMMISSIONER COMMENTS

- Commissioner Cave thanked the Commissioners for welcoming her.

XIII. PLANNING UPDATE. Director Westbay updated the Commission on recent activity in the Community Development Office.

- Building permits are up for last few months.
- Council held a special meeting a week ago for the Highway Access Control Plan and the Intergovernmental Agreement, which were adopted by Council and the Board of County Commissioners. The documents have been sent to CDOT signatures. That project is completed.
- On November 4th Director Westbay and Dan Brauch from Colorado Parks and Wildlife (CPW), attended a Gunnison Basin Roundtable meeting in Montrose to submit a Colorado Water Conservation Board (CWBC) River Restoration grant application requesting \$750,000. It is a joint application with CPW. It includes improvement of four irrigation diversion points; numerous channel improvements; floodplain attenuation with reworked topography and planting willows. The project addresses water quality, helps recharge of the basin aquifer, and provides irrigation and habitat for aquatic and non-aquatic species. The Roundtable awarded \$45,000 of the \$750,000. The application goes to the CWCB in March. He thinks it will be well received, but with flood damage on the Front Range there may be other priorities that will curtail this project, understandably. He said it is a strong project. The City is incorporating trail funding as part of its match as well as direct financial contributions to the Piloni Ditch. It will be of value to the community.
- He has been working on the City's comments for a public hearing with USFWS for the Gunnison Sage-grouse, which will be held on November 19th, a milestone for this project. He said there are four components: the Proposed Rule for Listing; the Proposed Rule for Critical Habitat; Economic Analysis of impacts of regulations; and an Environmental Assessment under NEPA. He explained that the listing proposal is flawed because the threats are not warranted. The biggest hitch is development. It has been demonstrated that the USFWS figures are erroneous. He explained how USFWS determined the Critical Habitat by using GIS raster data for land coverage. He said that the computer process is sound on its own, but it needs to be ground proofed. They did not cover 1.7 million acres in ground proofing. The State has done the same analysis but had resource managers contributing to the ground proofing. Under the Proposed Rule, 53 percent of the city is proposed as Critical Habitat. He said he believes the Critical Habitat is flawed. He then explained he feels the Economic Analysis is flawed because it assumes a baseline where the species is already listed. Many assumptions are also flawed including which grazing allotments are counted and what constitutes a Federal nexus. In summary, the issues are: methodology, the assumptions are flawed, and the scope of the economic analysis is flawed. Director Westbay stated that his personal opinion is that the species will be listed.
- Commissioner Ferchau said that the County has taken an aggressive posture that challenges the assumptions. There have been challenges to the distinct population theory. It seems with all this delay that the USFWS may be backing off on the listing. He thanked Director Westbay for the work he has done on the issue. Director Westbay said that one of the strongest points is the coalition of counties and states that are working on protection of the bird and that there is buy-

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in at the local and state level. That will bring political will into the discussion. It is strategically a very good move.

- Marlene Zanetell said she was “glad to hear Steve’s presentation. In response to Erich’s comment, I have a lot of hope. The City and County have been proactive on this for 20 years. We have spent real money in this county. Lots of times we paid ranchers when there was a critical allotment of concern. There was a small part of the land fill fee that was used to ameliorate this for a long time. We knew this was a prospective danger, so for more than 20 years if there was a lek known to be in the area, there was discussion with the proponent. Sometimes they moved the houses a bit and mitigated. People in our county have worked hard and have spent a lot of money. As far as nexus goes. I was on the BOCC when this was brought to our attention by the DOE under the Mill Tailings Remediation Act. They moved the radiated material. They had to clear all federal laws. They told the County Commissioners “you have a species that could be a prospective problem”. To have a nexus isn’t always bad. I have hope. Because we have been so proactive. We might make it.”
- Marlene Zanetell spoke about the CWCB grant application. She said where things were done properly (in the past when there was flooding from the Gunnison River) there was a lot that was protected. She said that “You are proposing something proactive. We are trying to do something for the future to save the state money.”
- Director Westbay said that the ProChallenge is coming to town in August. Gunnison will have a start with the conclusion on Monarch. The exact route has not been determined.
- Andie reminded everyone to RSVP for the Christmas Party.
- Commissioner Ferchau asked Director Westbay if the real estate transfer fee on Gunnison Rising is part of the formal record so that when people do title work they will see it. Director Westbay stated that it should come up on a title policy.

XIV. ADJOURN. Chair Larson adjourned the meeting at 8:22 p.m.

Greg Larson, Chair

Attest:

Pam Cunningham, Secretary